

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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Rockville, Maryland 20850  
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(www.montgomerycountymd.gov/mc/council/board.html)

**Case No. A-6007**

**PETITION OF LOU SEIGRIST**  
(Hearing held September 8, 2004)

**OPINION OF THE BOARD**  
(Effective Date of Opinion: Jan. 7, 2005)

Case No. A-6007 is a petition filed pursuant to Section 59-A-4.11(b) of the Montgomery County Zoning Ordinance (Chapter 59, Montgomery County Code, 1994, as amended) by Lou Seigrist (the "Petitioner") for variances from Section 59-C-1.323(b)(1) to (1) reduce the required 8-foot side setback to 5 feet, and (2) reduce the required sum of the side yard setbacks from 25 feet to 13 feet, for the construction of a carport addition.

The subject property is identified as Lot 17, Block 12, Landon Woods Subdivision, and is located in the R-90 Zone at 6112 Maiden Lane, Bethesda, Maryland 20817, Tax Account No. 00513624 (the "Property").

Pursuant to Section 59-A-4.4 of the Zoning Ordinance, the Board held a public hearing on the petition on September 8, 2004. Lou Seigrist appeared in support of the petition. No one appeared in opposition to the petition.

Decision of the Board: Requested variance **granted**.

**EVIDENCE PRESENTED TO THE BOARD**

1. The Property is a rectangular-shaped lot consisting of about 9,938 square feet. The Property is 79.5 feet wide and 125 feet deep.

2. The Property is improved with a 54.4' wide by 28.1' deep, two-story, single-family dwelling located 35 feet from the front lot line, 8 feet from the west side lot line, and 17 feet from the east side lot line. A detached, flat-roofed, metal carport is located on the east side of the house less than 5 feet from the east

side lot line. The Property slopes down from the rear of the house to the rear lot line.

3. The Petitioner proposes to remove the existing carport and replace it with an attached carport approximately 28 feet deep and 12 feet wide. The carport will have brick piers and a sloped roof to match the style of the existing home. The carport will be located five feet from the east side lot line.

4. The Petitioner testified that he could not build the carport in his rear yard because of the substantial drop-off from the house to the rear lot line. He stated that his rear yard slopes more steeply than any other in the area. He stated that there is a significant erosion and water drainage problem in his back yard that would be exacerbated if he built a carport or garage in the rear of the house. He also testified that other properties in the neighborhood typically have either carports or garages.

### **FINDINGS OF THE BOARD**

Based upon the Petitioners' binding testimony and the evidence of record, the Board finds that the variance can be granted. The requested variance complies with the applicable standards and requirements of Section 59-G-3.1 as follows:

*(A) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The Petitioner proposes to construct on the Property a reasonably sized carport that is customary in the area and comparable in size to the other carports and garages in the neighborhood and which is intended to replace an existing carport in the same location. Because the Property slopes more steeply in the rear yard than other homes in the area, causing a significant drainage problem, the Petitioner cannot feasibly build a carport in the rear of the Property. The Property is therefore unusually restricted in the amount of available space in which to build the carport. The only reasonable location for the carport is on the east side of the house, where the existing carport is located. Strict application of the 8' side setback and 25' sum of the side yards requirements would unreasonably prevent the Petitioner from making this reasonable and permitted use of his property. The Board finds that these are exceptional circumstances that are

peculiar to the Property and that the strict application of the setback regulations would result in a practical difficulty to the Petitioner.

(B) *Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.*

Because of the steep slope of the Property, the carport cannot reasonably be built in the rear yard. The only feasible location is on the east side of the house, where the existing carport is located. The proposed carport is of modest and reasonable size and will be set back a greater distance from the side lot line than the existing carport. Consequently, the Board finds that the variance requested is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.

(C) *Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.*

The proposed use is residential in nature and is consistent with the existing residential uses in the community. The variance will not impair the intent, purpose or integrity of the general plan or any approved master plan.

(D) *Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.*

The proposed carport will be set back from the side lot line a distance of five feet, which is greater than the setback of the existing carport. The proposed carport will be designed and constructed of materials that are more compatible with the existing house. Consequently, the variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.

Accordingly, the requested variances to (1) reduce the required 8-foot side setback to 5 feet, and (2) reduce the required sum of the side yard setbacks from 25 feet to 13 feet for the construction of a carport addition is granted subject to the following conditions:

1. The Petitioner is bound by all of the testimony and exhibits of record, and the testimony of his witnesses, to the extent that such evidence and representations are identified in this Opinion.

2. Construction of the dwelling must be completed according to the plans entered in the record as Exhibit Nos. 4 and 5.

The Board adopted the following Resolution:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the Opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Member Louise L. Mayer, seconded by Member Angelo M. Caputo, and Chairman Donald H. Spence, Vice-Chair Donna L. Barron and Member Allison Ishihara Fultz in agreement, the Board adopted the foregoing Resolution.

Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the Board of Appeals for Montgomery County, Maryland this 7 day of January 2005.

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Katherine Freeman  
Executive Secretary to the Board

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve (12) month period within which the approved variance must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (see Section

59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County on accordance with the Maryland Rules of Procedure.